



DEPARTMENT OF PUBLIC SAFETY POLICIES & PROCEDURES



POLICY NUMBER

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12

SUBJECT: CARRYING OF FIREARMS

1.0 PURPOSE

The purpose of this policy is to establish standards for the carrying of firearms by commissioned personnel and to describe prohibitions for non-commissioned personnel.

2.0 POLICY

It is the policy of the Department of Public Safety (DPS) to equip and train its commissioned personnel with compatible weapons systems that will assist them in safely and effectively performing their duties as well as enhancing officer safety.

3.0 APPLICABILITY

This policy shall apply to all commissioned personnel of the Department of Public Safety. The section entitled "Firearms in Department Facilities" applies to all non-commissioned DPS employees.

4.0 REFERENCES

- A. CALEA Chapter 1 – Law Enforcement Role and Authority
- B. HR 218; The Law Enforcement Officers Safety Act of 2004 (LEOSA)
- C. Section 30-7-2 NMSA 1978

5.0 DEFINITIONS

NONE

6.0 PROCEDURE

A. Carrying of Deadly Weapons

1. Commissioned personnel are authorized to carry and use deadly weapons in the performance of their duties pursuant to State Law (30-7-2 NMSA 1978) and Department policy.
2. Commissioned personnel shall carry their department issued/approved weapon/sidearm as their primary duty weapon while on duty. A back-up weapon/sidearm issued or approved by the New Mexico State Police Chief or designee may be carried as a back-up weapon at the officer's discretion.
3. Commissioned personnel may carry department issued/approved firearms while off-duty. When doing so, the following criteria shall be adhered to;
 - a. A department issued/approved primary duty weapon may be carried while off-duty at their discretion.
 - b. A department issued/approved back-up weapon may be carried, at their discretion, while off duty if the requirements for an off-duty weapon have been met.

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- c. A concealed departmental issued/approved weapon/sidearm may be carried while off duty as long as the badge and commission are in their possession.
- d. Commissioned personnel should consider carrying a spare magazine, handcuffs or plastic restraint devices while off-duty in the instance that an incident occurs where action is necessary.
- e. Commissioned personnel should realize that they may be in areas where they are not recognized as law enforcement officers and a safety plan for family members should be discussed in case of an incident.
- f. The decision to become physically involved in an incident while off-duty is that of the commissioned officer. If an officer chooses not to become physically involved, he/she shall not be subjected to discipline in any manner.
- g. In the instance of an off-duty incident where an officer is faced with a decision to intervene or not, the following should be considered.
 - 1. Commissioned personnel should consider their own abilities, training, experience, availability of equipment and the risks involved in taking action.
 - 2. When action is taken, an officer should immediately identify themselves as a law enforcement officer and ensure that the incident is relayed to the proper authorities. Upon the arrival of on-duty officers, it should be understood that the off-duty officer may be challenged and he/she should comply with ALL orders given by the responding officer/s.
 - 3. Once responding officer/s take control of the incident, the off-duty officer should cooperate with the investigating agency until relieved.
- 4. Commissioned personnel may carry a department issued/approved sidearm in a concealed manner while in another state as long as they have their commission and badge in possession. Federal Law, *HR 218: The Law Enforcement Officers Safety Act of 2004*, permits and allows for law enforcement officers to carry their firearm between states in a concealed manner. The laws and regulations of that state and all regulations as outlined in this policy must be followed if commissioned personnel choose to carry a concealed firearm.
- 5. Department issued/approved firearms will **NOT** be carried in the following circumstances:
 - a. While consuming alcohol off-duty or under the influence of alcohol or drugs.
 - b. While on suspension or otherwise relieved of regular duties.

B. Authorized Deadly Weapons

- 1. Duty Weapons – Department issued/approved firearms that are carried on duty.
 - a. Duty sidearm: Department issued/approved sidearm; make and model approved by the New Mexico State Police Chief or designee.
 - b. Duty rifle: Department issued rifle; make and model approved by the New Mexico State Police Chief or designee.

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- c. Duty shotgun (OPTIONAL): Department issued shotgun; make and model approved by the New Mexico State Police Chief or designee.
- d. Specialty Team Weapon(s): As approved by the New Mexico State Police Chief or designee.

2. Back-up Weapon/Sidearm – A department issued or approved personal weapon/sidearm that may be carried in addition to the primary duty weapon/sidearm. Back-up weapons/side arms are to be carried in a concealed manner and placed in a position to be utilized as a secondary weapon/sidearm in an emergency situation. The back-up weapon/sidearm may be carried as an off-duty weapon in a concealed fashion, provided the officer/agent has met all other departmental requirements.

3. Off-Duty Weapon/Sidearm – A department issued or approved personal weapon/sidearm that may be carried off-duty at the discretion of the commissioned personnel. This weapon/sidearm will be carried in a concealed manner. The officer/agent will have in their possession their badges and commission while carrying a concealed weapon/sidearm off duty.

4. Upon successful completion of the probationary period, an officer/agent may request and be approved to carry a personally owned sidearm for duty purposes under the following conditions:

- a. A firearm assessment and qualification will be required before approval will be granted to an officer/agent requesting to carry a personally owned sidearm. This assessment and qualification will be provided and documented by the armorer or designee. *Attachment B, Firearm Assessment and Qualification Form*, shall be utilized to document this assessment and qualification and will be kept on record by the armorer.
- b. Once the firearm assessment and qualification is completed, attachment B will be signed by the armorer or designee indicating approval. The officer/agent will complete attachment C requesting permission to carry the personally owned sidearm. Attachments B and C will be submitted through the armorer to the New Mexico State Police Chief/DPS Deputy Secretary - Operations.
- c. The officer/agent will adhere to the following criteria when personal side arms/handguns are considered for duty use.
 - 1. The approved calibers for duty carry are: minimum 9MM Luger/ maximum .45.
 - 2. The barrel length will be three inches minimum and five inches maximum.
 - 3. The minimum ammunition capacity will be six rounds.
 - 4. The side arm/handgun must be “as purchased” from a major manufacturer such as Browning, Colt, FN, Springfield Armory, SigArms, Glock, HK, Smith & Wesson, Beretta, Ruger, etc. Custom side arms/handguns from major shops will be considered by the armorer on a case by case basis.
 - 5. It is recommended that an officer/agent consult with the armorer or designee prior to purchasing a desired side arm/handgun for duty use. The color of the handgun shall be appropriate for the assigned duty. The sidearm will be inspected by the armorer or designee for suitability prior to approval.

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6. Modifications that will be permitted include aftermarket sights and/or grips; internal modifications are **prohibited**. All other modifications must be approved by the armorer.
7. The officer/agent must **not** sustain more than two weapon induced malfunctions during the firearm assessment and qualification for the sidearm to be deemed reliable enough to carry on duty.
8. An officer/agent may only be qualified with two side arms/handguns for duty carry. This can be two departmental handguns, a departmental and a personal handgun, or two personal handguns. If an officer elects to carry one personal handgun, he/she will either qualify with the department issue handgun at all three phases or turn in the departmental handgun.
9. The officer/agent wishing to carry a personal side arm/handgun must provide suitable duty gear for it.
10. The Officer/Agent wishing to carry a personal side arm/handgun must provide practice, qualification, and duty ammunition if it is chambered in a caliber different than the Department issued side arm.
11. The department armorer will maintain a list of approved duty bullet weights for specific calibers. (See OPR: 01 Use of Force Attachment B)

DPS commissioned employees shall NOT carry a weapon system on duty that they have not been approved to carry or have not successfully qualified with.

C. Weapons Security

All department weapons, when not secured on the officer's person or other department approved locking storage device, such as the issued AR-15 holder or the locked trunk of an issued unit, shall be secured and/or stored in a safe manner. All department weapons shall be inaccessible to children or unauthorized personnel at all times.

D. Specific Requirements

1. Commissioned personnel shall have all issued and approved firearms at their immediate disposal while on duty. The approved primary duty sidearm will be worn on their person, except in those circumstances noted above.
2. All weapons will be loaded with only authorized duty ammo while on or off duty, except during practice or training, as follows:
 - a. The duty sidearm will be fully loaded;
 - b. The issued long guns will be half loaded until needed for deployment;
 - c. Ball ammunition is **ONLY** authorized for qualifications and training.
3. All weapons, including back-up weapons, will be properly maintained and available for inspection at all times.
4. Unauthorized alterations or modifications will **NOT** be made to any weapon used or intended for official use, unless authorized by the department armorer.

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5. On duty plain-clothes commissioned personnel may carry their weapon/sidearm while in public view as long as the badge of office is displayed and the individual is dressed in a professional manner.
6. Undercover certified agents may carry weapons during undercover operations at their own discretion.
7. Carrying of additional weapons by members of specialty teams shall be governed by established team policy and approved by the New Mexico State Police Chief.
8. As a back-up weapon, commissioned personnel may carry a sidearm that has been issued by the department or a personal sidearm approved by the New Mexico State Police Chief or designee. (Approved caliber/s are .32, .380, .38, 9mm, 10mm, 40, .357, or 45).
9. Commissioned personnel will be required to qualify with the back-up or off-duty weapon initially when requesting departmental approval and thereafter at each firearms qualification using an approved standard course of fire.
10. Commissioned personnel will be required to use only department authorized factory ammunition. The armorer shall maintain a list of all authorized ammunition and make the list available to all commissioned personnel. If the officer/agent chooses to carry a personal back-up weapon, the officer/agent will be responsible for their ammunition. . (See OPR: 01 Use of Force Attachment B)
11. As an off-duty weapon, an officer/agent may carry a sidearm approved by the New Mexico State Police Chief or designee. The minimum acceptable caliber for an off-duty weapon will be .38 Special or 9mm and the officer/agent must qualify with the DPS authorized off-duty course of fire with a passing minimum score of 80%.
12. DPS Range Masters are authorized to qualify retired DPS commissioned employees. To comply with LEOSA requirements, a retired DPS commissioned employee must qualify with the authorized DPS off duty course of fire. Upon successful completion, the Range Master shall issue a completed "Retiree LEOSA Certification Card."
13. Commissioned personnel traveling on commercial airlines must meet the following requirements prior to carrying their approved sidearm on the aircraft:
 - a. Obtain authorization from the Office of the Chief or his/her designee and the airline and/or airline captain;
 - b. Employees must comply with FAA regulations.

E. Range Master Responsibilities

1. Will ensure that all firearms are checked for safety and serviceability prior to qualification. If a weapon is found to be unsafe, in disrepair or unserviceable, the district range master will immediately notify the commissioned personnel's chain of command and the armorer for appropriate disposition. The officer/agent will then be issued a spare weapon.
2. Will conduct practical training and/or review weapons malfunctions, use of deadly force policy issues, and manipulation drills during all phases of qualifications.

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3. Will review range rules prior to all qualifications and have the officer/agent sign a copy of the range rules during Phase I. The range master will maintain all signed range rules.
4. Will conduct all phases of qualifications as prescribed in the range masters manual and will ensure that all commissioned personnel within their district/bureau complete all firearms qualifications phases as required by this policy.
5. Will ensure all target scoring is done as prescribed in the range master's manual.
6. Will ensure all scoring is forwarded to the District/Bureau Commander or Director and the training section.

F. Headquarters Armorer or Designee Responsibilities

1. Inventory of all department owned weapons prior to issuing them to authorized personnel.
2. The department armorer will be responsible for the care, maintenance, service and issuance of department weapons. The armorer will maintain a list of approved duty bullet weights for specific calibers along with specific makes and models of current duty weapons.
3. The Range Masters Manual will be developed and maintained by the Department armorer on an annual basis and will be available from a Range Master upon request.
4. Maintenance of a record/database of each weapon approved by the department for duty use.
5. Storage and maintenance of qualification scores.
6. Storage, maintenance, and issuance of department ammunition.
7. Yearly reporting of commissioned personnels' firearms qualification scores to the New Mexico Law Enforcement Academy.

G. Qualification

1. Recruit officers will be required to qualify two consecutive times with a minimum score of eighty percent (80%) with all department weapons on all applicable courses of fire, prior to completion of the firearms portion of the academy training.
2. Firearms qualifications will be conducted three times a year for all commissioned personnel. Only those commissioned agency personnel demonstrating proficiency in the use of agency-authorized weapons will be approved to carry such weapons. Proficiency training must be monitored by a certified weapons instructor (range master)
3. During each firearms qualification, commissioned personnel shall qualify with a minimum score of eighty percent (80%) with all department approved weapons on all applicable courses of fire. Should commissioned personnel fail to qualify during the first attempt, that person will be allowed a second attempt to qualify immediately following the first failed attempt. Commissioned personnel shall be required to qualify **once** with a minimum score of eighty percent (80%).
4. All training and proficiency shall be documented. Documentation for training outside of qualifications shall be maintained in a district file. Documentation for qualifications must be forwarded to the armorer as specified in the Department Range Master Manual.

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5. Commissioned personnel must qualify with all issued and approved firearms three times a year. Commissioned personnel shall qualify and train with their weapons from the manner in which they are carried while on duty. All officers will utilize the issued or authorized hip holster that is used on a daily basis
6. At least one of these qualifications will be a night or low-light qualification.
7. Should commissioned personnel have an authorized back-up sidearm, he/she will be required to qualify with the back-up courses of fire during all three phases to carry the back-up sidearm on-duty.
8. All commissioned personnel will wear the authorized BDU uniform while participating in training at the range. The only exceptions will be training conducted specifically for specialty teams. Team members are allowed to wear authorized team uniforms for these activities.
9. The Range Masters Manual will describe the courses of fire, explaining the steps for each course, and identifying the periods of the three qualification phases.
10. After returning to duty from authorized extended leave, commissioned personnel must make up missed annual qualifications within 30 days.

H. Failure To Qualify/Remedial Training Procedure

1. If commissioned personnel fail to qualify on the second attempt during the initial firearms qualification by not achieving at least a minimum score of eighty percent (80%) on any department issued/approved weapon, the range master will:
 - a. Immediately notify that person's District/Bureau Commander or Director who will authorize further remedial firearms training. The Commander shall ensure that the range master completes two to eight hours of initial remedial firearms training with that person the day following the failed qualification.
 - b. The commissioned personnel shall attain one minimum score of eighty percent (80%) on the failed course. That person will then be returned to their prior active duty status.
 - c. Should the commissioned personnel fail to qualify with a minimum score of eighty percent (80%) after the initial remedial firearms training, the range master will notify the District/Bureau Commander or Director, who will then notify the Department Armorer and the Office of the Chief.
 - d. The commissioned personnel will be assigned to "administrative duties" and additional remedial firearms training will be scheduled with the Department Armorer or designee to take place within three working days immediately following the failed initial remedial firearms training. The commissioned personnel will not be allowed to perform their regular duties until they have passed this secondary remedial firearms training.
 - e. The department issued marked unit and firearms will be secured by the District/Bureau Commander until that person returns to regular duties.
 - f. The range master and District/Bureau Commander shall complete and sign the Remedial Training Form documenting the remedial firearms training actions taken regarding the commissioned personnel.

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- g. Should the commissioned personnel fail to achieve at least one minimum score of eighty percent (80%) in the secondary remedial firearms training, action will be taken by the Chief, which could include dismissal.
- h. Repeated failure to achieve a minimum passing score in any subsequent qualification phase may compel the Chief to take action, which may include dismissal.
- i. District Commanders shall ensure that range masters provide firearms training prior to every qualification to all commissioned personnel who have achieved scores of eighty percent (80.0%) to eighty-three percent (83.0%) on the previous qualification.

I. Procedure for Review, Inspection and Approval of Department-Approved Weapons

1. The armorer or designee is responsible for the review, inspection, and approval of Department owned weapons prior to them being issued to field employees.
2. Commissioned personnel requesting authorization to carry a personally owned firearm must have the weapon reviewed and inspected for serviceability by the armorer or designee. Refer to section 6. B. 4 of this policy for further details.
3. Commissioned personnel may only begin carrying the weapon for duty use after he/she has received written authorization from the New Mexico State Police Chief or designee.
4. Once approved for carrying purposes, commissioned personnel shall, within three days of receiving written authorization, provide the make, model, serial number, and caliber to the armorer or designee for purposes of updating the weapons database.

J. Procedure for Removal of Unsafe Weapon

1. Prior to conducting any weapons qualification, the instructor shall inspect all weapons for serviceability. Commissioned personnel will also inspect their issue weapons for any obvious problems and serviceability.
2. If a weapon is found to be unsafe, it shall be immediately removed from service.
3. Commissioned personnel shall contact the District/Bureau Commander or Director in order to have the district/bureau spare weapon issued on a temporary basis.
4. The armorer shall be contacted as soon as practical to arrange for a replacement weapon.
5. The armorer shall replace/repair the unsafe weapon and update the weapons database, as appropriate.

K. Procedure for Record Keeping

1. The armorer shall maintain a record of all weapons approved by the department for official use.
2. The armorer or designee shall maintain a database listing all division-issued firearms, including model and serial numbers and, to whom the firearm is issued.

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3. In the event a weapon is discovered to be unsafe, it shall be replaced according to the procedure described above. The newly issued replacement shall be entered into the database for inventory/tracking purposes.

L. Firearms in Department Facilities

1. Non-commissioned DPS employees, DPS contractors, and visitors are strictly prohibited from possessing a firearm inside any department-owned or leased building, even though they may possess a valid New Mexico Concealed Carry License.
2. Non-commissioned Law Enforcement Academy firearms instructors or cadets attending the New Mexico Law Enforcement Academy or the State Police Academy may possess firearms inside department buildings while conducting or participating in firearms training.
3. Non-DPS commissioned officers visiting a DPS facility on official business or attending training are permitted to carry firearms, consistent with this policy.

7.0 ATTACHMENTS

- A. Remedial Training Form**
- B. Firearm Assessment and Qualification Form**
- C. Form IDC; Request to Carry Personally Owned Sidearm for Duty Purposes**

8.0 APPROVAL

APPROVED BY: s/ Gregory J. Fouratt DATE: May 1, 2014
DPS Cabinet Secretary